



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

COPY MAILED
JUL 14 2005
OFFICE OF PETITIONS

In re Application of :
Yamaguchi et al. : DECISION ON PETITION
Application No. 10/821,197 :
Filed: April 9, 2004 :
Attorney Docket No. 0756-7288 :

This is a decision on the petition filed on September 1, 2004 (certificate of mailing dated August 30, 2004), and resubmitted on February 16, 2005, requesting that the above-identified application be accorded a filing date of April 9, 2004.

On April 9, 2004, applicants deposited the above-identified application. On June 29, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application was deposited without a specification and that the filing date would be the date of receipt of the specification, including at least one claim. Additionally, the Notice indicated that the statutory basic filing fee and an oath or declaration were missing.

On September 1, 2004 (certificate of mailing dated August 30, 2004), applicants submitted a Verification of Translation,¹ an executed Declaration and Power of Attorney, an English translation of the application, Figures 1A-7H, an Assignment/Recordation Form Cover Sheet, the statutory basic filing fee, a surcharge, claim fees, an assignment recordation fee, and the fee for filing a non-English specification. In addition, applicants submitted a copy of their

¹Jun Yamada, a translator, verified that the document was a true English translation of U.S. Patent Application No. 10/821,197 filed on April 9, 2004, in Japanese.

return postcard receipt acknowledging receipt of, *inter alia*, 19 pages of a Japanese language specification, claims and abstract.

Upon review of the record, the 19 pages of the Japanese language specification, claims and abstract, deposited on April 9, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 9, 2004, included 19 pages of a Japanese language specification, claims and abstract, which were subsequently misplaced in the United States Patent and Trademark Office.

The Office will accord a filing date to an application meeting the requirements of 35 USC 111(a), even though some or all of the application papers, including the written description and the claims, are in a language other than English and hence does not comply with 37 CFR 1.52. A review of the application file reveals that the application as filed, though in Japanese, was entitled to a filing date of April 9, 2004.

In view thereof, the petition is **GRANTED**. The requirement for a specification set forth in the Notice of Incomplete Nonprovisional Application was sent in error and is hereby vacated. Accordingly, the \$130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 50-2280.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of April 9, 2004**, using the 19 pages of the Japanese language specification, claims and abstract submitted on September 1, 2004, as part of the original disclosure, and to mail a filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions